

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460
(202) 566-1667

Re: Freedom of Information Act Request

Per the Freedom of Information Act (FOIA), 5 U.S.C. § 552, I request copies of all documents, including but not limited to emails, meeting minutes, background information, preparatory notes, memoranda of conversations, cables, raw data, and reports, whether circulated or tabled, with or involving the Environmental Protection Agency and CropLife America concerning European Union and United States trade negotiations between the dates of October 1st 2013 and August 9th 2014.

This request is not meant to be exclusive of any other records which, though not specifically requested, would have a reasonable relationship to the subject matter of this request.

I am making this request on behalf of the Center for International Environmental Law (CIEL). CIEL is a not-for-profit organization that uses the power of law to protect the environment, promote human rights, and ensure a just and sustainable society. CIEL is actively engaged in informing the public on matters affecting toxic chemical management that may negatively affect human health and the environment through publications, commentary to the press, and the development of an institutional expertise regarding chemical management.

I also request that you waive any applicable fees on the ground that disclosure meets the statutory standard for waiver of fees in that it is clearly “in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). These documents will illuminate in a clear and direct way, the operations and activities of the EPA as it acts to fulfill important Congressional mandates to protect the environment. Release of the documents will significantly contribute to public understanding and oversight of the EPA's operations, particularly regarding the EPA's role in trade negotiations between the EU and US that will impact chemical regulations that protect human health and the environment.

CIEL has the demonstrated capacity, expertise, and intention to analyze and disseminate the requested information to inform and educate the public. CIEL has a long and active history in addressing threats to human health and the environment posed by toxic chemicals and has disseminated similar information through detailed analysis of regulatory and trade proposals and trade processes, direct communication to journalists and other members of the media, through press releases, through newsletters to all of our members, through our web sites, through public meetings, and through other legislative, executive, and judicial fora. Because it is a non-profit, public interest organization, CIEL

has no commercial interest in the requested materials and would have extremely limited financial resources with which to cover the copying and search expenses of this request.

To further clarify that our specific intent to disseminate information to the general public, we offer the following information about our organization and our intent. We note that EPA's FOIA regulations do not define or otherwise specify what "disseminat[ing] information to the public" means with respect to the fee waiver determination under 40 C.F.R. § 2.107(l).

First, to clarify our "capacity" and "expertise," CIEL has a team of experienced attorneys well-trained in United States, European, and international law. These attorneys are experts in various areas of direct relevance to this FOIA request, including chemicals law, international trade law, U.S. administrative law, intellectual property law, climate change and energy law, and other legal areas that might be relevant to analyze information disclosed. In addition, we are supported by a network of partner organizations with equally well-trained attorneys with whom we collaborate closely.

Regarding our "intention to analyze," this is the primary purpose for the request. We will apply our legal, policy and subject matter expertise to analyze the materials disclosed, and to write an analytical report of our findings.

Finally, we will disseminate information to the general public. We have relationships with mainstream and trade media outlets, including the New York Times, Washington Post, ChemicalWatch, Politico, Bloomberg BNA, Inside EPA, and other media outlets to whom we plan to distribute our report, blogs and other material describing our analysis of the information disclosed. In addition, we intend to publish our analysis on our blog, post material on our website, and send information to email subscribers and partner organizations, which will further disseminate the information to the public. We will also share our analysis with other non-profit organizations in the United States and Europe with the capacity to reach additional segments of the general public. Through these outlets, amplified by our online social media presence, we have the specific intent to disseminate the information to the general public.

In addition, would also like to explain here how we meet the factors listed 40 C.F.R. § 2.107(l)(2)(ii-iv).

Regarding the "informative value of the information to be disclosed" (40 C.F.R. § 2.107(l)(2)(ii)), the information sought is not already in the public domain. The information sought would be meaningfully informative about EPA's operations and activities with respect to U.S. and EU chemical laws. Thus, it would be "likely to contribute" to increased public understanding of EPA's operations and activities.

The requested information will contribute to "public understanding" satisfying the 40 C.F.R. § 2.107(l)(2)(iii) requirement. The information would contribute to a broad public understanding and oversight of the EPA's operations, particularly regarding the EPA's role in trade negotiations between the EU and US that could affect the implementation of

U.S. chemical regulations, which protect human health and the environment, by EPA. As described above, CIEL's expertise in the subject area, and the ability and intention to effectively convey information to the public, will contribute to the understanding of a reasonably broad audience of persons interested in the subject.

Finally, the disclosure is likely to contribute "significantly" to public understanding of government operations or activities, pursuant to 40 C.F.R. § 2.107(l)(2)(iv). The regulation states that EPA "will not make value judgments about whether information that would contribute significantly to public understanding of the operations or activities of the government is 'important' enough to be made public." *Id.* The public's understanding of the subject in question is, at present, very low given the scientific and legal nature of the discussions, as well as the lack of transparency. The subject is complex and requires legal expertise in U.S. and EU laws to analyze discussions, and convey to a broad audience in a manner accessible for the general public. Thus, the level of public understanding, relative to that prior to the disclosure, will be enhanced by the disclosure to a significant extent.

In light of the ongoing debate surrounding the EU and US trade negotiations, I note that time is of the essence in this matter. There is a great need for prompt disclosure so that the released information may more adequately inform the public debate.

In the event that access to any of the requested records is denied, please note that the FOIA provides that if only portions of a requested file are exempted from release, the remainder must still be released. I therefore request that I be provided with all non-exempt portions which are reasonably segregable. I further request that you describe the deleted material in detail and specify the statutory basis for the denial as well as your reasons for believing that the alleged statutory justification applies in this instance. Please separately state your reasons for not invoking your discretionary powers to release the requested documents in the public interest.

If you have any questions regarding this request, please contact me at the phone number provided below. I will be happy to cooperate with you to obtain this information in a timely manner. I look forward to receiving your response within the twenty day statutory time period. Thank you for your consideration of this request.

Sincerely,

Baskut Tuncak
Center for International Environmental Law (CIEL)
1350 Connecticut Ave. Suite 1100
Washington D.C. 20036, USA
Office: + 1 202-742-5854